

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER PASATIERI,

Plaintiff,

- against -

BALLISLIFE LLC,

Defendant.

Docket No. 17-cv-04341

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Christopher Pasatieri (“Pasatieri” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant Ballislife LLC (“Ballislife” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of NBA basketball player Jason Terry wearing Reebok Kamikaze II black and white sneakers and “Zebra” black and white striped socks, owned and registered by Pasatieri, a New York-based photojournalist. Accordingly, Pasatieri seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Pasatieri is a professional photojournalist in the business of licensing his photographs to online, print, and television stations for a fee, having a usual place of business at 3310 Nostrand Avenue, Brooklyn, NY 11229. Pasatieri's photographs have appeared in many publications around the United States.

6. Upon information and belief, Ballislife is a corporation duly organized and existing under the laws of the state of California, with a place of business at 17785 Sky Park Circle, Suite G, Irvine, California 92614.

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. On December 25, 2013, Pasatieri photographed NBA basketball player Jason Terry wearing Reebok Kamikaze II black and white sneakers and "Zebra" black and white striped socks (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Pasatieri is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA2-036-719.

B. Defendant's Infringing Activities

10. At all times material hereto, Defendant have owned and operated a website at the following URL: <https://ballislife.com> (the "Website"). The Website contains a link to the social media website Twitter.com and, specifically, to the Twitter account '@Ballislife' (the "Twitter Account"). The Twitter Account has approximately 245,000 followers. See Exhibit B.

11. On December 26, 2013, Defendant published a post on its Twitter Account with the headline "Jason Terry wearing Zebra socks and @ReebokHoops Kamikaze II PE sneakers on Christmas." The post prominently featured Plaintiff's Photograph. A screenshot showing the post on Defendant's Twitter Account is attached hereto as Exhibit C.

12. Defendant did not license the Photograph from Plaintiff, nor did Defendant have Plaintiff's permission or consent to publish the Photograph on its Twitter Account.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST BALLISLIFE)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Defendant infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on its Twitter Account. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute an infringement of Plaintiff's copyright and exclusive rights under copyright, in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the aforementioned acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

17. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant's non-cumulative profits pursuant to 17 U.S.C. § 504(b).

18. Defendant's conduct, described above, is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded his actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph pursuant to 17 U.S.C. § 504(b);
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
June 8, 2017

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